

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

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ROBERT CLEVELAND  
MITCHELL #166223, III,

Plaintiff,

v.

CONNIE HORTON, et al.,

Defendants.

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Case No. 2:18-CV-216

HON. GORDON J. QUIST

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On July 6, 2020, U.S. Magistrate Judge Maarten Vermaat issued a Report and Recommendation (R. & R.), recommending that the Court grant in part and deny in part MDOC Defendants' Motion for Partial Summary Judgment Based on Failure to Exhaust and Motion to Dismiss Based on Eleventh Amendment Immunity. (ECF No. 40). The Court has reviewed the R. & R. No objections have been filed pursuant to 28 U.S.C. § 636(b). Thus, the Court will adopt the R. & R.

**THEREFORE, IT IS HEREBY ORDERED** that the July 6, 2020, Report and Recommendation (ECF No. 40) is **adopted** as the Opinion of the Court.

**IT IS FURTHER ORDERED** that Defendants' motion (ECF No. 26) is **GRANTED IN PART AND DENIED IN PART** for the reasons set forth in the R. & R. Therefore, Plaintiff's claims against Defendants Michigan Department of Corrections, Heidi Washington, and Kenneth McKee are **dismissed without prejudice**.

Plaintiff's American with Disability Act (ADA) and state law claims against Defendant Connie Horton remain in this case.

Dated: July 31, 2020

/s/ Gordon J. Quist  
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GORDON J. QUIST  
UNITED STATES DISTRICT JUDGE